

Senate File 419 - Introduced

SENATE FILE 419

BY CHELGREN

A BILL FOR

1 An Act relating to strikes and disputes arising in public
2 employment, making penalties applicable, and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.415, Code 2015, is amended to read as
2 follows:

3 **8A.415 Grievances and discipline resolution.**

4 1. *Grievances.*

5 a. An employee, except an employee covered by a collective
6 bargaining agreement which provides otherwise, who has
7 exhausted the available agency steps in the uniform grievance
8 procedure provided for in the department rules may, within
9 ~~seven~~ five calendar days following the date a decision was
10 received or should have been received at the second step of the
11 grievance procedure, file the grievance at the third step with
12 the director. The director shall respond within ~~thirty~~ five
13 calendar days following receipt of the third step grievance.

14 b. If not satisfied, the employee may, within ~~thirty~~
15 five calendar days following the director's response, file
16 an appeal with the public employment relations board. The
17 hearing shall be conducted in accordance with the rules of the
18 public employment relations board and the Iowa administrative
19 procedure Act, chapter 17A. Decisions rendered shall be based
20 upon a standard of substantial compliance with this subchapter
21 and the rules of the department. Decisions by the public
22 employment relations board constitute final agency action.
23 c. For purposes of this subsection, "*uniform grievance*
24 *procedure*" does not include procedures for discipline and
25 discharge.

26 2. *Discipline resolution.*

27 a. A merit system employee, except an employee covered
28 by a collective bargaining agreement, who is discharged,
29 suspended, demoted, or otherwise receives a reduction in pay,
30 except during the employee's probationary period, may bypass
31 steps one and two of the grievance procedure and appeal the
32 disciplinary action to the director within ~~seven~~ five calendar
33 days following the effective date of the action. The director
34 shall respond within ~~thirty~~ five calendar days following
35 receipt of the appeal.

1 *b.* If not satisfied, the employee may, within ~~thirty~~ five
 2 calendar days following the director's response, file an appeal
 3 with the public employment relations board. The employee has
 4 the right to a hearing closed to the public, unless a public
 5 hearing is requested by the employee. The hearing shall
 6 otherwise be conducted in accordance with the rules of the
 7 public employment relations board and the Iowa administrative
 8 procedure Act, chapter 17A. If the public employment relations
 9 board finds that the action taken by the appointing authority
 10 was for political, religious, racial, national origin, sex,
 11 age, or other reasons not constituting just cause, the employee
 12 may be reinstated without loss of pay or benefits for the
 13 elapsed period, or the public employment relations board may
 14 provide other appropriate remedies. Decisions by the public
 15 employment relations board constitute final agency action.

16 Sec. 2. Section 20.1, subsection 1, Code 2015, is amended
 17 to read as follows:

18 1. The general assembly declares that it is the public
 19 policy of the state to promote harmonious and cooperative
 20 relationships between government and its employees by
 21 permitting public employees to organize and bargain
 22 collectively; to protect the citizens of this state by assuring
 23 effective and orderly operations of government in providing
 24 for their health, safety, and welfare; ~~to prohibit and prevent~~
 25 ~~all strikes by public employees;~~ and to protect the rights of
 26 public employees to join or refuse to join, and to participate
 27 in or refuse to participate in, employee organizations.

28 Sec. 3. Section 20.10, subsection 2, Code 2015, is amended
 29 by adding the following new paragraph:

30 NEW PARAGRAPH. *i.* Violate section 20.12.

31 Sec. 4. Section 20.10, subsection 3, paragraphs e and h,
 32 Code 2015, are amended by striking the paragraphs.

33 Sec. 5. Section 20.11, subsections 1 and 4, Code 2015, are
 34 amended to read as follows:

35 1. Proceedings against a party alleging a violation of

1 section 20.10 shall be commenced by filing a complaint with the
 2 board within ~~ninety~~ five days of the alleged violation, causing
 3 a copy of the complaint to be served upon the accused party.
 4 The accused party shall have ~~ten~~ five days within which to file
 5 a written answer to the complaint. However, the board may
 6 conduct a preliminary investigation of the alleged violation,
 7 and if the board determines that the complaint has no basis in
 8 fact, the board may dismiss the complaint. The board shall
 9 promptly thereafter set a time and place for hearing in the
 10 county where the alleged violation occurred, provided, however,
 11 that the presiding officer may conduct the hearing through the
 12 use of technology from a remote location. The parties shall
 13 be permitted to be represented by counsel, summon witnesses,
 14 and request the board to subpoena witnesses on the requester's
 15 behalf. Compliance with the technical rules of pleading and
 16 evidence shall not be required.

17 4. The board shall file its findings of fact and conclusions
 18 of law within ~~sixty~~ five days of the close of any hearing,
 19 receipt of the transcript, or submission of any briefs.
 20 If the board finds that the party accused has committed a
 21 prohibited practice, the board may, within ~~thirty~~ five days
 22 of its decision, enter into a consent order with the party
 23 to discontinue the practice, or after the ~~thirty~~ five days
 24 following the decision may petition the district court for
 25 injunctive relief pursuant to rules of civil procedure 1.1501
 26 to 1.1511.

27 Sec. 6. Section 20.12, Code 2015, is amended by striking the
 28 section and inserting in lieu thereof the following:

29 **20.12 Pay and benefits during strikes prohibited.**

30 A public employee shall not be entitled to pay or benefits
 31 from a public employer for any period of time in which the
 32 public employee participates in a strike. A public employer
 33 shall not provide such a public employee with such pay or
 34 benefits.

35 Sec. 7. Section 20.18, Code 2015, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 1A. The time period permitted for each
3 action, other than actions involving a court, by a party or
4 decision maker, other than a court, relating to the grievance
5 resolution process in a collective bargaining agreement,
6 including but not limited to the filing of complaints and
7 answers, the conduct of hearings and appeals, and the issuance
8 of administrative decisions shall not exceed five calendar
9 days.

10 Sec. 8. Section 279.15, subsection 2, paragraph c, Code
11 2015, is amended to read as follows:

12 c. Within five days of the receipt of the written notice
13 that the superintendent is recommending termination of the
14 contract, the teacher may request, in writing to the secretary
15 of the board, a private hearing with the board. The private
16 hearing shall not be subject to chapter 21 and shall be
17 held no ~~sooner than ten days and no later than twenty five~~
18 days following the receipt of the request unless the parties
19 otherwise agree. The secretary of the board shall notify
20 the teacher in writing of the date, time, and location of
21 the private hearing, and at least ~~five~~ three days before the
22 hearing shall also furnish to the teacher any documentation
23 which may be presented to the board at the private hearing
24 and a list of persons who may address the board in support of
25 the superintendent's recommendation at the private hearing.
26 At least three days before the hearing, the teacher shall
27 provide any documentation the teacher expects to present at
28 the private hearing, along with the names of any persons who
29 may address the board on behalf of the teacher. This exchange
30 of information shall be at the time specified unless otherwise
31 agreed.

32 Sec. 9. Section 279.17, subsections 1, 4, 5, and 7, Code
33 2015, are amended to read as follows:

34 1. If the teacher is no longer a probationary teacher, the
35 teacher may, within ~~ten~~ five days, appeal the determination of

1 the board to an adjudicator by filing a notice of appeal with
2 the secretary of the board. The notice of appeal shall contain
3 a concise statement of the action which is the subject of the
4 appeal, the particular board action appealed from, the grounds
5 on which relief is sought and the relief sought.

6 4. a. Within ~~thirty~~ five days after filing the notice of
7 appeal, or within further time allowed by the adjudicator,
8 the board shall transmit to the adjudicator the original or
9 a certified copy of the entire record of the private hearing
10 which may be the subject of the petition. By stipulation
11 of the parties to review the proceedings, the record of the
12 case may be shortened. The adjudicator may require or permit
13 subsequent corrections or additions to the shortened record.
14 b. The record certified and filed by the board shall be the
15 record upon which the appeal shall be heard and no additional
16 evidence shall be heard by the adjudicator. In such appeal to
17 the adjudicator, especially when considering the credibility
18 of witnesses, the adjudicator shall give weight to the fact
19 findings of the board; but shall not be bound by them.

20 5. Before the date set for hearing a petition for review
21 of board action, which shall be within ~~ten~~ five days after
22 receipt of the record unless otherwise agreed or unless the
23 adjudicator orders additional evidence be taken before the
24 board, application may be made to the adjudicator for leave to
25 present evidence in addition to that found in the record of the
26 case. If it is shown to the adjudicator that the additional
27 evidence is material and that there were good reasons for
28 failure to present it in the private hearing before the board,
29 the adjudicator may order that the additional evidence be taken
30 before the board upon conditions determined by the adjudicator.
31 The board may modify its findings and decision in the case by
32 reason of the additional evidence and shall file that evidence
33 and any modifications, new findings, or decisions, with the
34 adjudicator and mail copies of the new findings or decisions
35 to the teacher.

1 7. The adjudicator shall, within ~~fifteen~~ five days after the
 2 hearing, make a decision and shall give a copy of the decision
 3 to the teacher and the secretary of the board. The decision
 4 of the adjudicator shall become the final and binding decision
 5 of the board unless either party within ~~ten~~ five days notifies
 6 the secretary of the board that the decision is rejected. The
 7 board may reject the decision by majority vote, by roll call,
 8 in open meeting and entered into the minutes of the meeting.
 9 The board shall immediately notify the teacher of its decision
 10 by certified mail. The teacher may reject the adjudicator's
 11 decision by notifying the board's secretary in writing within
 12 ~~ten~~ five days of the filing of such decision.

13 Sec. 10. Section 279.18, subsection 1, Code 2015, is amended
 14 to read as follows:

15 1. If either party rejects the adjudicator's decision,
 16 the rejecting party shall, within ~~thirty~~ five days of the
 17 initial filing of such decision, appeal to the district court
 18 of the county in which the administrative office of the school
 19 district is located. The notice of appeal shall be immediately
 20 mailed by certified mail to the other party. The adjudicator
 21 shall transmit to the reviewing court the original or a
 22 certified copy of the entire record which may be the subject
 23 of the petition. By stipulation of all parties to the review
 24 proceedings, the record of such a case may be shortened. A
 25 party unreasonably refusing to stipulate to limit the record
 26 may be taxed by the court for the additional cost. The court
 27 may require or permit subsequent corrections or additions to
 28 the shortened record.

29 Sec. 11. Section 400.20, Code 2015, is amended to read as
 30 follows:

31 **400.20 Appeal.**

32 The suspension, demotion, or discharge of a person holding
 33 civil service rights may be appealed to the civil service
 34 commission within ~~fourteen~~ five calendar days after the
 35 suspension, demotion, or discharge.

1 The bill provides that a violation of the prohibition by a
2 public employer is a prohibited practice under Code chapter 20
3 and subject to the remedies provided in Code chapter 20 for
4 prohibited practices.

5 The bill provides that the time period permitted for each
6 action, other than actions involving a court, by a party or
7 decision maker, other than a court, relating to the grievance
8 resolution process in a collective bargaining agreement,
9 including but not limited to the filing of complaints and
10 answers, the conduct of hearings and appeals, and the issuance
11 of administrative decisions shall not exceed five calendar
12 days.

13 The bill reduces the statutory time periods for various
14 steps in dispute resolution processes for public employees to
15 five calendar days.

16 The bill applies to collective bargaining agreements entered
17 into on or after the effective date of the bill.